

CIVIL SERVICE COMMISSION MINUTES

March 19, 2003

A meeting of the Civil Service Commission was held at 2:30 p.m., in Room 310 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Barry I. Newman
Sigrid Pate
Marc Sandstrom
Gordon Austin
A.Y. Casillas

Comprising a quorum of the Commission

Support Staff Present:

Larry Cook, Executive Officer
Ralph Shadwell, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

CIVIL SERVICE COMMISSION MINUTES
March 19, 2003

CLOSED SESSION: No items for discussion

2:30 p.m. OPEN SESSION: Room 310, 1600 Pacific Highway,
San Diego, California 92101

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
9,10,11,13,14,20,21	12,18		7,8,9

COMMENTS Motion by Sandstrom to approve all items not held for discussion; seconded by Pate. Carried.

REGULAR AGENDA
County Administration Center, Room 310

NOTE: Five total minutes will be allocated for input on Agenda items unless additional time is requested at the outset and the President of the Commission approves it.

WELCOME

1. Welcome A. Y. Casillas, newly appointed Civil Service Commissioner.

MINUTES

2. Approval of the Minutes of the regular meeting of February 19, 2003.

Approved.

CONFIRMATION OF ASSIGNMENTS

3. Mary Gwen Brummitt, former Commissioner, as an outside hearing officer in the appeal of **Gerald Hall**, former Public Defender Investigator III, appealing a Final Order of Removal and Charges from the Department of the Public Defender. (This action confirms previous assignment as sitting Commissioner.)

Confirmed.

4. Mary Gwen Brummitt, former Commissioner, as an outside hearing officer in the appeal of **Charles Lo**, Supervising Clerk, appealing an Order of Suspension and Charges from HHSA. (This action confirms previous assignment as sitting Commissioner.)

Confirmed.

5. Mary Gwen Brummitt, former Commissioner, as an outside hearing officer in the appeal of **Gary Higgins**, former Recordable Documents Specialist I, appealing an Order to Refrain from Incompatible Activity from the Assessor/Recorder/County Clerk. (This action confirms previous assignment as sitting Commissioner.)

Confirmed.

REASSIGNMENT

6. Commissioner Pate: Richard Pinckard, Esq., on behalf of **2003/0001***, Deputy Sheriff, appealing an Order of Pay Step Reduction, Removal of Training Officer Premium and Charges from the Sheriff's Department. (Mary Gwen Brummitt, former Commissioner, was originally assigned.)

Confirmed.

WITHDRAWALS

7. **James Atkins**, prospective candidate for Deputy District Attorney V, appealing the selection process used by the Department of Human Resources (DHR) and the former District Attorney for the classification of Deputy District Attorney V.

Withdrawn.

8. Commissioner Sandstrom: **James Atkins**, prospective Candidate for Deputy District Attorney V, alleging political affiliation discrimination by the former District Attorney.

Withdrawn.

9. **Valerie Lough**, Paralegal I, Office of the District Attorney, requesting a classification review in the Office of the District Attorney for the classification of Paralegal I. (See No. 14 below.)

Commissioner Newman requested that this item be pulled. He asked Ms. Lough if she had been advised or coerced to withdraw her request. Ms. Lough stated that she withdraws her request for a classification review in its entirety and that there were no coercions or representations made by Commission staff.

**Motion by Newman to accept withdrawal; seconded by Casillas.
Carried.**

Withdrawn.

DISCRIMINATION

Findings

10. Commissioner Pate: Wendell Prude, S.E.I.U. Local 2028, on behalf of **Leticia Molina**, former Intermediate Clerk Typist, alleging disability discrimination by the Assessor/Recorder/County Clerk.

FINDINGS AND RECOMMENDATIONS:

At the regular meeting of the Civil Service Commission on December 18, 2002, the Commission appointed Sigrid Pate to investigate the complaint submitted by Complainant. The complaint was referred to the Office of Internal Affairs for investigation and report back. During the course of OIA's investigation, settlement discussions between the Department and Employee commenced and resulted in a written agreement signed by the parties on February 25, 2003. The agreement is a Letter of Agreement and Release in Lieu of Failure of Probation and it remedies Employee's primary complaint of failing probation as an Intermediate Clerk Typist. The investigating officer, after reviewing the Letter of Agreement and Release in Lieu of Failure of Probation,

has determined that the public would be best served if the Commission adopts this recommendation. It is therefore recommended that the Commission ratify the personnel actions contained in the agreement; that the Release of all Claims by Employee be accepted as a withdrawal of her discrimination; that the Commission read and file this report, and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Pate to approve Findings and Recommendations; seconded by Austin. Carried.

11. Commissioner Pate: **Diane Daniels**, former Deputy Probation Officer, alleging discrimination based on non-job-related factors (alleged unwanted personal advances) by the Department of Probation.

FINDINGS AND RECOMMENDATIONS:

At the regular meeting of the Civil Service Commission on December 18, 2002, the Commission appointed Sigrid Pate to investigate the complaint submitted by Complainant. The complaint was referred to the Office of Internal Affairs for investigation and report back. The report of OIA was received and reviewed by the Investigating Officer, who concurred with the findings that there was no evidence to support Employee's allegations of discrimination based on non-job related factors (alleged unwanted personal advances) and that probable cause that a violation of discrimination laws occurred was not established in this matter. It is therefore recommended that this complaint be denied; that the Commission approve and file this report with the appended OIA Final Investigative Report with a findings of no probable cause that Complainant has been discriminated against on any basis protected by law; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Pate to approve Findings and Recommendation; seconded by Sandstrom. Carried.

12. Commissioner Austin: J. Michael Roake, Esq., on behalf of **Jo Pastore**, Deputy Public Defender III, alleging retaliation discrimination by the Department of the Public Defender.

FINDINGS AND RECOMMENDATIONS:

Commissioner Austin requested that this matter be continued in order for him to review the Settlement Agreement entered into by the Department and the Employee. English Bryant, Deputy County Counsel, requested that the Findings and Recommendations be rendered at this meeting because as part of the Settlement Agreement Employee submitted a withdrawal of her complaint. English Bryant presumed the withdrawal would become effective as of the date of this meeting, especially in light of the fact that the Settlement Agreement has been signed by all parties. Commissioner Austin reiterated that because he was out of town, he was not able to thoroughly review the Settlement Agreement.

Motion by Austin to continue this matter to the April 2, 2003 Civil Service Meeting; seconded by Sandstrom. Carried.

Continued.

SELECTION PROCESS

Complaints

13. **Jane Via**, prospective candidate for Deputy District Attorney V, appealing the selection process used by DHR and the former District Attorney for the classification of Deputy District Attorney V. (Continued from the Commission's February 19, 2003 meeting.)

RECOMMENDATION: Follow Counsel's Advice.

Anthony Albers, Sr. Deputy County Counsel asked what practical effect could be accomplished if the Commission granted a Rule X hearing regarding a provisional appointment. He explained that there will not be a new list promulgated for DDA V in May 2003, therefore the provisional employee will revert to a DDA IV, his previous classification. Larry Cook, Executive Officer, suggested that this item be continued until the outcome of the Rule VI investigation, at which time the Rule X request may become moot as the provisional appointment ends on May 16, 2003.

The Commission wanted to ensure that Appellant would not be prejudiced since the item would be continued beyond May 16th. Counsel advised that Ms. Via's request relates to only one provisional appointment, thus she would not be prejudiced.

Motion by Austin to continue this item to the first Commission meeting after May 16, 2003; seconded by Sandstrom. Carried.

14. **Valerie Lough**, Paralegal I, Office of the District Attorney, appealing the selection process used by DHR and the Office of the District Attorney for the classification of Investigative Specialist II. (Continued from the Commission's February 19, 2003 meeting.)

RECOMMENDATION: Grant Request. (See No. 9 above.)

Anne Calle, Sr. Resource Analyst with DHR, presented a timeline which she utilized to explain to the Commission the events that took place regarding the selection process. There was discussion between the Commission and the parties regarding the issues brought forth by Ms. Lough. After discussion, the Commission determined to go forward with a selection process hearing to sort through the events that resulted from the complaint.

Motion by Sandstrom to grant the request; seconded by Pate. Carried. Commissioner Austin assigned.

AYES:	Pate, Sandstrom, Austin, Casillas
NOES:	Newman
ABSTENTIONS:	None

Findings

15. **Cesar Mota**, appealing the removal of his name by the Department of Human Resources from the employment list for Deputy Sheriff Cadet.

16. **Erica Y. Ayala**, appealing the removal of her name by the Department of Human Resources from the employment list for Deputy Sheriff-Detentions/Courts.

17. **Cliff Rinder**, appealing the removal of his name by the Department of Human Resources from the employment list for Deputy Sheriff Cadet.

RECOMMENDATION: Ratify Item Nos. 15-17. Appellants have been successful in the appellate process provided by Civil Service Rule 4.2.2.

Item Nos. 15-17 ratified.

OTHER MATTERS

Seal Performance Appraisal

18. Wendell Prude, S.E.I.U. Local 2028, on behalf of **Dani Helton**, Revenue & Recovery Officer Trainee, Auditor and Controller, requesting the sealing of a Performance Appraisal for the period March 28, 2002 to June 28, 2002.

RECOMMENDATION: Consider all written and verbal input.

Staff amended recommendation approved.

Continued.

Extension of Temporary Appointments

19. Agriculture, Weights & Measures

2 Insect Detection Specialists I (Cynthia Drake, John Janke)

20. Department of Child Support Services

A. 1 Imaging Technician Trainee (Kenneth Arnold)

B. 11 Child Support Officers (Damion Womack, Susan Varee, Meiny Trisno, Woo-Jin Shim, Jennifer Roque, Joseph May, Sheila Hardnett, Wai Chui, Mohammed Ares, Monica Brown, Manuel Arquillo)

21. Health and Human Services Agency

A. 1 Medical Records Technician (Debora Zadrozny)

B. 3 Human Services Specialists (Patricia Golly, Wendy Garcia, Cinthya Guzman)

C. 7 Protective Services Workers I (Tami Arnold, Jennifer Olson, Ernest Zetino, Amanda McCalla, Eva Marcelli, Lupita Castro, Juliet Kwagala-Kyegimb)

D. 3 Protective Services Workers II (Patricia Egge, Terence Fawthrop, Nicole Campus)

E. 1 Residential Care Worker Trainee (Danica Kroner)

F. 3 Residential Care Workers I (Teberh Kebreab, Monique Miller, Khalif Hayes)

22. Department of Purchasing & Contracting

1 Procurement Contracting Officer (William Meyers)

23. Department of Environmental Health

1 Environmental Health Specialist I (Linda Ndlebe)

RECOMMENDATION: Ratify Item Nos. 19-23.

Commissioner Newman pulled item 20 A. and B. and item 21 A. and B. for clarification purposes. Carlos Arauz, Director DHR, explained that these temporary appointments were for a period of time due to peak work load, high turnover, budget approval, and grant approval. The Commissioner will continue to monitor these temporary appointments, and Mr. Arauz will request that Departments have a representative at each meeting where there is a request to ratify temporary appointments.

Motion by Pate to ratify items 19-23; seconded by Sandstrom. Carried. Items 19-23 ratified.

24. Public Input.

For information purposes only, Eloy Villa, Director of the San Diego County Office of Internal Affairs (OIA) addressed the Commission regarding OIA's investigation under Rule VI pertaining to alleged political affiliation discrimination filed by deputy district attorney IV and V candidates and prospective candidates. Mr. Villa wanted to clarify that OIA's investigation will delve into political affiliation issues only, not the selection process (Rule X) utilized by the DA.

ADJOURNMENT: 3:35 p.m.

NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE APRIL 2, 2003.

*** The identity of the peace officer is held confidential per Penal Code Section 832.7 (San Diego Police Officers' Association, et al. v. City of San Diego Civil Service Commission).**